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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,413	07/25/2006	Jakob Gerrit Nijboer	NL 040129	1739

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BRIARCLIFF MANOR, NY 10510

EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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04/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,413	Applicant(s) NIJBOER ET AL.	
	Examiner JORGE L. ORTIZ CRIADO	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/07/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Takahashi et al. WO2004/059648.

As per claim 1, Takahashi et al discloses a record carrier (1) comprising at least one area (21; DMWA) for storing disc management information, said record carrier further comprising an area (14) comprising signals indicating whether or not the areas for storing disc management

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information are in use, each one of said signals related to one of said areas for storing disc management information (see Figs. 2, 6, 8).

As per claim 2, Takahashi et al discloses wherein the area comprising signals indicating whether or not the areas for storing disc management information are in use is located inside a first one of said at least one area for storing disc management information (see Fig. 2).

As per claim 3, Takahashi et al discloses wherein the area comprising signals indicating whether or not the areas for storing disc management information are in use is located adjacent to a first one of said at least one area for storing disc management information (see Fig. 2).

As per claim 4, Takahashi et al discloses wherein the signals indicating whether or not the areas for storing disc management information are in use are clusters on a record carrier (1 block; see page 29, lines 10-11), said clusters comprising marks for indicating a first status of said areas for storing disc management information and comprising no marks for indicating a second status of said areas for storing disc management information (see Figs. 6, 8).

As per claim 5, Takahashi et al discloses the first status indicates that the areas for storing disc management information are in use (See for example Fig. 8 (a), DMWA # 2, and the second status indicates that the areas for storing disc management information are not in use (DMWA#1).

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As per claim 6, is drawn to the method of recording the above record carrier having limitations similar to the ones treated above, and is rejected for the same reasons of anticipation.

As per claim 7, Takahashi et al discloses wherein the step of accessing the area comprising signals indicating whether or not the areas for storing disc management information are in use consist of jumping to a predefined location on the record carrier (see Fig. 6).

As per claim 8, Takahashi et al discloses wherein the step of retrieving the disc management information comprises retrieving pointer information from a predefined location in the last area for storing disc management information in use, and subsequently retrieving the disc management information by using said pointer information (see Fig. 5).

Response to Arguments

Applicant's arguments filed 01/07/2009 have been fully considered but they are not persuasive.

Applicant argues that Takahashi et al. that the portions cited for area 14 do not show the subject matter of the instant invention. And that specifically not an area comprising signals indicating whether or not the areas for storing disc management information are in use. Applicant argues that the specific recitation is not found.

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The examiner cannot concur with the Applicant because as claimed, Takahashi et al clearly discloses at very least **one area (21; DMWA)**; for disc management information and **one area** (14) comprising signals indicating that such area for defect management information is in use.

As set forth in the Office action, the cited portion in regard to area as for corresponding description with regard to figs. 2, 6, 8. Regarding description for these figures with relates as to how the **latest** DMWA is used/in use are found.

Contrary to Applicant's assertion, Takahashi et al do in fact discloses signals indicating that such area for defect management information is in use.

Furthermore, Applicant's arguments do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

Applicant's arguments alleged that the recitations are not found. However, Applicant's argument is a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

.Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. During the application examination, the claims are given the broadest reasonable interpretation consistent with the specification.

Closing Comments/Remarks

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/
Primary Examiner, Art Unit 2627